

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

CHRISTOPHER HELALI,)
)
)
 Plaintiff,)
)
)
 v.) Civil Action No. 2:21-cv-00141-cr
)
)
ZIPPORAH LEGARDE and PETER)
SOELLER,)
)
)
 Defendants.)

**PLAINTIFF'S RULE 55(a) APPLICATION TO THE CLERK TO
ENTER THE DEFAULT OF DEFENDANT ZIPPORAH LEGARDE**

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Rule 55(a), Plaintiff Christopher Helali (“Plaintiff” or “Mr. Helali”), by and through his undersigned counsel, hereby applies to the Clerk to enter the default of Defendant Zipporah Legarde. This Application is based on the following Local Rule 55(a) Statement of Entitlement to Entry of Default. Plaintiff states respectfully as follows:

LOCAL RULE 55(a) STATEMENT OF ENTITLEMENT TO ENTRY OF DEFAULT

On June 1, 2021, Mr. Helali, a Vermont citizen, filed his Complaint (Doc. 1) in this diversity-of-citizenship defamation action against Ms. Legarde, a citizen of Massachusetts, and Mr. Peter Soeller, a citizen of Connecticut (Doc. 1, ¶¶ 1, 6-8). Ms. Legarde was served personally with the Summons and Complaint on June 7, 2021 (Doc. 2). Ms. Legarde’s counsel entered her appearance on June 25, 2021 (Doc. 3).

Pursuant to a June 25, 2021 Stipulated Motion (Doc. 4) that this Court granted on June 28, 2021 (Doc. 5), Ms. Legarde’s original June 28, 2021 deadline to respond to the Complaint was extended to July 26, 2021. On July 26, 2021, Ms. Legarde filed a pre-discovery non-

evidentiary Rule 12 Motion (Doc. 10) for dismissal of Complaint Counts I and II, which are the two Counts against her. (Complaint Count III is against Mr. Soeller, who is in default (see Doc. 9).)

On November 15, 2021, this Court conducted oral argument on Ms. Legarde's Rule 12 Motion and took the matter under advisement (see Doc. 13).

On January 12, 2022, this Court entered an Opinion and Order denying Ms. Legarde's Rule 12 motion (see Doc. 14).

Also on January 12, 2022, at approximately 9:41 AM, this Court's electronic-filing system sent a Notice of Electronic Filing concerning the Court's January 12, 2022 Opinion and Order (Doc. 14) to Ms. Legarde's attorney at two electronic mail addresses (sam@catamountlaw.com and jen@catamountlaw.com).

Accordingly, Ms. Legarde's 14-day deadline to serve an answer to the Complaint was **Wednesday, January 26, 2022.** See Fed. R. Civ. P. 12(a)(4)(A) (defendant must serve answer to complaint within 14 days "after notice" of denial of Rule 12 motion). See also Fed. R. Civ. P. 6(d) (no three-day extension following service via ECF); and Administrative Procedures for Electronic Case Filing (ECF), U.S. Dist. Ct. for the Dist. of Vt. (Sept. 2019), at § (G)(2) ("Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of" Fed. R. Civ. P. 5(b)(2)(E)).

As of 10:55 A.M. today, Plaintiff's undersigned counsel has not received an answer to the Complaint or a notice of electronic filing of such a pleading. Nor has Plaintiff's counsel received any communications from Ms. Legarde's counsel since January 12, 2022.

The Complaint seeks affirmative relief against Ms. Legarde. See Complaint (Doc. 1), Count I, ¶¶ 152-158, Count II, ¶¶ 159-165, and Wherefore Clause ¶¶ A, B. Rule 55(a) of the

Federal Rules of Civil Procedure states that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a).

WHEREFORE, Plaintiff Christopher Helali requests respectfully that the Clerk enter the default of Defendant Zipporah Legarde.

DATED at Burlington, Vermont this 1st day of February, 2022.

Respectfully submitted,

MSK ATTORNEYS

By: /s/ Daniel A. Seff
Daniel A. Seff, Esq.

275 College Street, P.O. Box 4485
Burlington, VT 05406-4485
Phone: 802-861-7000 (x119)
Fax: 802-861-7007
Email: dseff@mskvt.com

Attorneys for Plaintiff Christopher Helali